



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 13, 2016

The Council of the City of San José convened in Regular Session at 9:30 a.m. in the Council Chamber at City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:41 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code 54956.9 subsection (c) pertaining to initiation of litigation in three (3) matters. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Filson. Amount of Money or Other Relief Sought: Administrative Appeal. (2) In re: Claim of Baldwin. Amount of Money or Other Relief Sought: Administrative Appeal. (3) City of San José v. City of Santa Clara. Court: Superior Court of California, County of Santa Clara; Case No: 16CV298317; Amount of Money or Other Relief Sought: Damages According to Proof. (4) Sharks Sports & Entertainment LLC v. City of San José, et al. Names of Parties Involved: Sharks Sports & Entertainment LLC, City of San José, San José City Council and Does 1-10. Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 16CV 296834; Amount of Money or Other Relief Sought: Damages According to Proof. (5) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (6) IFPTE Local 21 v. City of San José; Names of

CLOSED SESSION (Cont'd.)

Parties Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (7) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (8) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (9) ABMEI v. City, et al. Names of Parties Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No: UPC SF 1358 M; Amount of Money or Other Relief Sought: Damages according to proof. (10) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case No: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (11) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-226570, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (14) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-225928, H040979,

CLOSED SESSION (Cont'd.)

H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (15) People of the State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (16) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court. Names of Parties Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, A California Non-Profit Corporation, Proposed Intervenors, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, The People of the State of California ex rel, San José Police Officers' Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or in the alternative, supersedes or other appropriate relief. (17) San José Retired Employees Association, et al V. City of San José, et al. Names of Parties Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, The Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-2680085; Amount of Money or Other Relief Sought: Change to City Medical Plan. (C) to confer with Real Property Designated Representative pursuant to Government Code Section 54956.8: Property: Thorson Property, 517 W. St. John Street, San José, California. Negotiation Parties: Thorson, Seller; Nanci Klein and Bill Ekern for the City; Under Negotiation: The direction will concern price and terms of payment. Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Contract or

CLOSED SESSION (Cont'd.)

Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW.(8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:35 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chamber.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

INVOCATION

"The Voice of San José" Angela Tirado sang "Amazing Grace" for the Invocation. (District 8)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo, accompanied by Parkview Elementary Third Graders, led the Pledge of Allegiance.

ORDERS OF THE DAY

Heard following the Ceremonial Items.

Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 2.19 was added to the Agenda. (9-0-2. Absent: Kalra, M. Nguyen.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing September 5-9, 2016 as National Payroll Week in the City of San José. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized September 5-9, 2016 as “National Payroll Week” in San José.

1.2 Presentation of a proclamation recognizing September 12-18, 2016 as National Balance Awareness Week in the City of San José. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized September 12-18, 2016 as “National Balance Awareness Week” in San José.

1.3 Presentation of a proclamation to recognize the month of September as Ovarian Cancer Awareness Month in the City of San José. (Perez)

Mayor Sam Liccardo and Council Member Raul Perez recognized the month of September as “Ovarian Cancer Awareness Month” in San José.

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0)

2.1 Approval of Council Minutes.

- (a) Regular Minutes of May 3, 2016.**
- (b) Regular Minutes of May 10, 2016.**
- (c) Regular Study Session Minutes of the FY 2016-2017 Operating/Capital Budgets and Fees and Charges Report of May 11, 2016 – May 16, 2016.**
- (d) Regular Minutes of May 17, 2016.**
- (e) Regular Minutes of May 24, 2016.**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: (1) The Regular Minutes dated May 3, 2016, May 10, 2016, May 17, 2016 and May 24, 2016. (2) The Study Session Minutes of the FY 2016-2017 Operating/Capital Budgets and Fees and Charges Report dated May 11, 2016 – May 16, 2016.

Action: The City Council Minutes were approved. (11-0.)

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29785** – An ordinance of the City of San José amending Sections 20.100.500, 20.100.630, 20.100.720, 20.100.820, 20.100.940, 20.100.1010, 20.100.1020, 20.100.1030, 20.100.1040, 20.100.1050, 20.100.1080, and 20.100.1090 of Chapter 20.100 of Title 20, adding Sections 20.200.1052 and 20.200.1054 of Chapter 20.200 of Title 20 and repealing Section 23.02.465 of Chapter 23.02 of Title 23 of the San José Municipal Code to require that permits be consistent with the Envision San José 2010 General Plan goals and policies, zoning code and City Council-adopted policies, require a single-family house permit for single-family house development in conventional zoning districts that involve ground-disturbing activity within 100 feet of a Riparian Corridor, add definitions for “Riparian” and “Riparian Corridor”, correct inadvertent deletion of previously approved code amendments and make other technical, formatting or non-substantive changes within the zoning code. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final EIR and Supplemental EIR, File No. PP15-118. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29785 executed on August 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29785 was adopted. (11-0.)

- (b) **ORD. NO. 29786** – An ordinance of the City of San José amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code, which lists all infractions, to update the list of infractions. CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (City Attorney)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29786 executed on September 2, 2016, submitted by the City Clerk.

Action: Ordinance No. 29786 was adopted. (11-0.)

- (c) **ORD. NO. 29787** – An ordinance of the Council of the City of San José dedicating as public right-of-way approximately 6,382 square feet of city-owned property along the south side of Saint James Street for the purpose of constructing roadway improvements of Saint James Street. CEQA: Exempt, File No. PP16-059. Council District 3. (Public Works)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29787 executed on September 2, 2016, submitted by the City Clerk.

Action: Ordinance No. 29787 was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

- (a) **Rules and Open Government Committee Minutes of August 17, 2016. (Mayor)**
 - (b) **Public Safety, Finance, and Strategic Support Committee Minutes of August 18, 2016. (Oliverio)**
 - (c) **Community and Economic Development Committee Minutes of August 22, 2016. (Khamis)**
 - (d) **Rules and Open Government Committee Minutes of August 24, 2016. (Mayor)**
- CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.**

Documents Filed: (1) The Rules and Open Government Committee Minutes dated August 17, 2016 and August 24, 2016. (2) The Public Safety, Finance and Strategic Support Committee Minutes dated August 18, 2016. (3) The Community and Economic Development Committee Minutes dated August 22, 2016.

Action: The Council Committee Minutes were approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

Council Member Johnny Khamis offered highlights of his trip from San José to Shanghai, China.

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Magdalena Carrasco and carried unanimously, the travel report for Council Member Johnny Khamis was accepted. (11-0.)

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Authorize international travel to Copenhagen, Denmark for Jim Ortbal, Director of Transportation; Angel Rios, Director of Parks, Recreation and Neighborhood Services and Kim Walesh, Deputy City Manager/Director of Economic Development as the City Manager's designated representatives on the Knight Foundation Study Tour of best practices in sustainable urban development, September 30 - October 6, 2016. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Manager)

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated August 29, 2016, requesting authorization of travel for Director of Transportation James Ortbal, Deputy City Manager/Director of Economic Development Kim Walesh and Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr.

2.7 (Cont'd.)

Assistant City Manager David Sykes amended the request to note that Assistant Director of Parks, Recreation and Neighborhood Services Matt Cano will be attending the Knight Foundation Study Tour of best practices in sustainable urban development in lieu of Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, the international travel was authorized, with Assistant Director of Parks, Recreation and Neighborhood Services Matt Cano to attend in lieu of Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. (10-0-1. Absent: T. Nguyen.)

2.8 Adopt a resolution authorizing the City Manager to authorize "Free Use" for an event to be held at the City Hall Rotunda on Saturday, September 24, 2016 to celebrate the opening of the Acceleration Business City (ABC) Silicon Valley. CEQA: Not a Project, File No. PP10-067(a), Fees and Charges. Council District 3. (Economic Development)

Action: Item 2.8 was dropped.

2.9 Authorize certification and submittal of the FY 2015-2016 Stormwater Annual Permit Report to the San Francisco Bay Regional Water Quality Control Board by September 30, 2016, in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit requirements, pursuant to the Federal Clean Water Act. CEQA: Not a Project, File No. PP10-069(a), Annual reports that involve no approvals that would result in a change in the physical environment. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated August 22, 2016, recommending authorizing certification and submittal of the FY 2015-2016 Stormwater Annual Permit Report to the San Francisco Bay Regional Water Quality Control Board by September 30, 2016.

Action: The certification and submittal of the FY 2015-2016 Stormwater Annual Permit Report to the San Francisco Bay Regional Water Quality Control Board by September 30, 2016 was authorized. (11-0.)

2.10 Adopt a resolution to authorize the City Manager to:

- (a) Execute a Purchase Order with Sunbelt Controls (Pleasanton, CA) for the purchase of heating, ventilation, and air conditioning parts, training, and technical support services for an initial twelve month period commencing July 1, 2016 through June 30, 2017, in an amount not-to-exceed \$80,000.**
- (b) Approve a contingency of \$8,000 in the event that additional parts and services are required during the initial term, subject to the appropriations of funds.**

- 2.10 (c) Exercise up to four, one-year options to renew the Purchase Order, with the final option year ending June 30, 2021, subject to the annual appropriation of funds and not to exceed an aggregate maximum compensation amount of \$350,000 over the four year period.**

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)

Documents Filed: City Council Action Request from Director of Finance Julia Cooper, dated October 1, 2016, recommending adoption of a resolution.

Action: Resolution No. 77924, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Purchase Order with Sunbelt Controls for the Purchase of Heating, Ventilation and Air Conditioning Parts, Training and Technical Services for an Initial Twelve Month Period Commencing July 1, 2016 through June 30, 2017, In An Amount Not To Exceed \$80,000; Approve a Contingency of \$8,000 in the Event that Additional Parts and Services Are Required During the Initial Term, Subject to the Appropriation of Funds; and Exercise Up to Four One-Year Options to Renew the Purchase Order, With the Final Option Year Ending June 30, 2021, Subject to the Annual Appropriation of Funds and Not To Exceed An Aggregate Maximum Compensation Amount of \$350,000 Over the Four-Year Period", was adopted. (11-0.)

2.11 As recommended by the Rules and Open Government Committee on August 24, 2016:

- (a) Approve the Summerdale Community Dumpster Day scheduled on September 17, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (M. Nguyen)
[Rules Committee referral 8/24/16 – Item G.1.a]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 1, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Summerdale Community Dumpster Day scheduled on September 17, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.12 As recommended by the Rules and Open Government Committee on August 24, 2016:

- (a) Approve the D3 Yes! scheduled on October 7, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Perez)
[Rules Committee referral 8/24/16 – Item G.1.b]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 1, 2016, transmitting the recommendations of the Rules and Open Government Committee.

2.12 (Cont'd.)

Action: D3 Yes! scheduled on October 7, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.13 As recommended by the Rules and Open Government Committee on August 31, 2016:

- (a) Approve the District 1 Eats scheduled on Friday, September 30, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Jones)

[Rules Committee referral 8/31/16 – Item G.1.a]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 1, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 1 Eats scheduled on Friday, September 30, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.14 As recommended by the Rules and Open Government Committee on August 31, 2016:

- (a) Approve the District 2 Village Fest scheduled on Saturday, September 17, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Kalra)

[Rules Committee referral 8/31/16 – Item G.1.b]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 1, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 2 Village Fest scheduled on Saturday, September 17, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.15 As recommended by the Rules and Open Government Committee on August 31, 2016:

- (a) Approve the Youth Job Fair scheduled on October 8, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Khamis)

[Rules Committee referral 8/31/16 – Item G.1.c]

2.15 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 1, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Youth Job Fair scheduled on October 8, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.16 As recommended by the Rules and Open Government Committee on August 31, 2016:

(a) Approve the RockSprings Paseo Senter Health Resource Fair on Saturday, September 10, 2016 at Paseo Senter Community Room; Tully Library Moon Festival on Saturday, September 10, 2016 at Tully Community Library; Mid-Autumn Moon Festival on Saturday, September 16, 2016 at Yerba Buena High School; Grand Opening Ceremony of the Vietnamese American Community Center on Sunday, October 16, 2016 at Shirakawa Community Center; Dump Your Junk Day on Sunday, October 23, 2016 at Hubbard Elementary School; Bay Area Hmong New Year Celebration on Saturday, November 5, 2016 at History San José Park as City Council sponsored Special Events and approve the expenditure of funds.

(b) Approve and accept donations from various individuals, businesses or community groups to support the event.

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (T. Nguyen)
[Rules Committee referral 8/31/16 – Item G.1.d]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 1, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The RockSprings Paseo Senter Health Resource Fair on Saturday, September 10, 2016 at Paseo Senter Community Room; Tully Library Moon Festival on Saturday, September 10, 2016 at Tully Community Library; Mid-Autumn Moon Festival on Saturday, September 16, 2016 at Yerba Buena High School; Grand Opening Ceremony of the Vietnamese American Community Center on Sunday, October 16, 2016 at Shirakawa Community Center; Dump Your Junk Day on Sunday, October 23, 2016 at Hubbard Elementary School; Bay Area Hmong New Year Celebration on Saturday, November 5, 2016 at History San José Park as City Council sponsored Special Events and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the events were authorized. (11-0.)

**2.17 As recommended by the Rules and Open Government Committee on August 31, 2016, approve the proposed designation of Vice Mayor Rose Herrera, as the voting delegate, and the Director of Intergovernmental Relations Betsy Shotwell, as the alternate voting delegate at the October 7, 2016, Annual Business meeting for the League of California Cities (LOCC) in Long Beach. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (City Manager)
[Rules Committee referral 8/31/16 – Item G.2.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 1, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Vice Mayor Rose Herrera pointed out that at the Annual Conference for the League of California Cities, the City of San José will be submitting a Resolution on Vision Zero.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Blair Beekman reiterated his point of view about the resolution process for Vision Zero.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Pierluigi Oliverio and carried unanimously, the proposed designation of Vice Mayor Rose Herrera, as the voting delegate, and the Director of Intergovernmental Relations Betsy Shotwell, as the alternate voting delegate at the October 7, 2016, Annual Business meeting for the League of California Cities in Long Beach was authorized. (11-0.)

- 2.18 Authorize Independent Police Auditor (IPA) Walter Katz's travel to Albuquerque, NM from September 26 – September 29, 2016, for a business-related trip to attend the NACOLE conference. Source of Funds: IPA Travel Funds. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Independent Police Auditor)**

Documents Filed: Memorandum from Independent Police Auditor Walter Katz, dated September 1, 2016, requesting approval of travel.

Action: The travel request from Independent Police Auditor Walter Katz to Albuquerque, NM from September 26 – September 29, 2016, for a business-related trip to attend the NACOLE conference was authorized. (11-0.)

- 2.19 (a) Authorize travel by Council Member Khamis to Washington, DC from September 18 to September 21, 2016 for the 7th Annual World Bank Global Pension and Savings Conference. Source of Funds: Police and Fire Department Retirement Plan.**
- (b) Authorize an excused absence for Council Member Khamis from the following meetings due to Authorized City Business:**
- (1) September 20, 2016 City Council Closed Session, City Council Open Session and City Council Evening Session.**
 - (2) September 21, 2016 Rules and Open Government and Committee of the Whole.**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Khamis)

Added Under Orders of the Day.

Documents Filed: Memorandum from Council Member Johnny Khamis, dated September 8, 2018, requesting approval of travel and an excused absence.

2.19 (Cont'd.)

Action: The travel for Council Member Johnny Khamis to Washington, DC from September 18 to September 21, 2016 for the 7th Annual World Bank Global Pension and Savings Conference was approved and an excused absence was authorized due to City business.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).

City Manager Norberto Dueñas announced that the City is currently going through a Design Competition for the Revitalization of Saint James Park, the oldest City Park and historical asset in San José.

Mayor Sam Liccardo thanked Director of Parks, Recreation and Neighborhood Services Angel Rios and the Parks Team for their ongoing work on revitalizing Saint James Park.

3.3 As recommended by the Public Safety, Finance, and Strategic Support Committee on August 18, 2016, accept the following Fourth Quarter (period ending June 30, 2016) Financial Reports for Fiscal Year 2015-2016 for the following programs:

- (a) Debt Management Report**
- (b) Investment Report**
- (c) Revenue Collection Report**

CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities. (Finance)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 1, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Director of Finance Julia Cooper responded to questions from Mayor Sam Liccardo and Council Member Johnny Khamis.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Fourth Quarter (period ending June 30, 2016) Financial Reports for Fiscal Year 2015-2016 for the following programs: Debt Management Report, Investment Report and Revenue Collection Report were accepted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Hold a Public Hearing on the FY 2015-2016 Consolidated Annual Performance Evaluation Report (CAPER) and approve the FY 2015-2016 CAPER for submittal to the U.S. Department of Housing and Urban Development by the September 30, 2016 deadline. CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Jacky Morales-Ferrand, dated August 31, 2016, recommending holding a public hearing, approval of the CAPER and authorization to submit the CAPER to the U.S. Department of Housing and Urban Development by the September 30, 2016 deadline. (2) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated September 12, 2016, summarizing the public comments received for the draft report and the CAPER during the fifteen day comment period, including revisions to the draft in response to those comments, as well as Staff initiated revisions. (3) Staff presentation dated September 13, 2016 summarizing the FY 2015-2016 Consolidated Annual Performance Evaluation Report. (4) Two Proofs of Publications of Notices of Public Hearings both executed on August 19, 2016 submitted by the City Clerk.

Director of Housing Jacky Morales-Ferrand and Housing Policy and Planning Administrator James Stagi presented the report. Development Officer Katheryn Kaminski was present.

Council discussion ensued.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Eileen Hunter expressed support to the Staff recommendations.

Mayor Sam Liccardo closed the Public Hearing.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, the FY 2015-2016 Consolidated Annual Performance Evaluation Report (CAPER) was approved and submittal to the U.S. Department of Housing and Urban Development by the September 30, 2016 deadline of the CAPER was authorized. (11-0.)

- 4.2 (a) Adopt a resolution consenting to the establishment of the Urban Agriculture Incentive Zone (UAIZ) in certain unincorporated Santa Clara County (County) areas in the City of San José's Urban Service Area/Urban Growth Boundary (USA/UGB) consistent with State Assembly Bill 551 that supersedes Resolution No. 77584 and maintains the inclusion of the following conditions from Resolution No. 77584, which was adopted by Council on November 17, 2015:**
- (1) The UAIZ shall not be established in areas that are outside the City of San José's USA/UGB.**

- 4.2 (a) (2) The UAIZ shall be established only in areas and for parcels where the land use designation under the City of San José General Plan supports agriculture or urban agriculture use including but not limited to Open Hillside, Lower Hillside, Rural Residential, Residential Neighborhood, and Neighborhood/Community Commercial.
- (3) In compliance with the Santa Clara County Code of Ordinances, including but not limited to Section 5.20.060 (City General Plan Conformance), Section 5.20.070 (Properties subject to Annexation), and Section C1-52 (Properties subject to annexation), the County shall complete or require the completion of a Contiguity/Annexation Statement form and refer the proposal for the UAIZ incentive and contract for such parcels to the City of San José for the City's determination as to whether the proposed use will require annexation.
- (4) The production, cultivation, growing and harvesting of marijuana shall be prohibited in the UAIZ.
- (5) The raising of livestock (except poultry for egg laying), fur-bearing animals, and dairy-producing animals shall be prohibited in the UAIZ.
- (b) Based on a letter from the California Department of Housing and Community Development (HCD) dated April 28, 2016 (see Attachment 1 of the memorandum to City Council), eliminate the following condition that was included in Resolution No. 77584: Parcels that are identified as adequate sites for housing in the Housing Element Inventory of the City of San José General Plan Housing Element certified by the California Department of Housing and Community Development (HCD) shall not be included within a UAIZ.

CEQA: Exempt, File No. PP15-108. (Planning Building and Code Enforcement)
(Deferred from 8/23/16 – Item 4.3)

Documents Filed: (1) Memorandum from Council Member Raul Peralez, dated September 12, 2016, providing recommendations as described in "Action". (2) Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated August 1, 2016, recommending adoption of a resolution. (3) Staff presentation dated September 13, 2016 summarizing the Urban Agriculture Incentive Zone Ordinance Resolution. (4) Fourteen letters/correspondence from members of the public all dated September 13, 2016 pertaining to the establishment of the Urban Agriculture Incentive Zone.

Assistant Director of Planning, Building and Code Enforcement Rosalynn Hughey Supervising Planner, Ordinance and Policy Team Jenny Nausbaum and Ordinance Technical Advisor Arthur Henriques presented the report and responded to Council questions and concerns. City Attorney Richard Doyle offered legal clarifications.

Motion: Council Member Raul Peralez moved approval of the Staff recommendations and his memorandum dated September 12, 2016, with direction and to adopt the ordinance prior to November 28, 2016. Council Member Ash Kalra seconded the motion.

Mayor Sam Liccardo opened the floor for public testimony.

4.2 (Cont'd.)

Public Comments: Expressing support to the Establishment of the Urban Agriculture Incentive Zone were Paul Escobar, Silicon Valley Leadership Group; Olga Loya, Jumaná Latif, Martha Barahona, Holly Basseri, Laura Padilla, Alana Gifford-Gonzalez, Tori Tuschert, Jacky Rivera, Beverly Bachoo, Renee Manuel, Regina Jones, Moria Merriweather, Cleto Mortell, Amber Martines, Egbert Higinio, Sandi Taylor, La Mesa Verde; Diego Ortiz, SPUR; Zach Lewis, Garden to Table; Jaime Alvarado, Josh Levine, Start Organic; Denise Olenak, Backwater Arts; Amos Rendler, Jamie Chen, Sacred Heart; Trey Martines, Eileen Hunter, Erin Healy, The Health Trust; Susan Nguyen, Lorinda Farfan, James Reilly, County of Santa Clara Planning Department and Brian Darby.

Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Raul Peralez, dated September 12, 2016, was approved as follows: (1) Adopt the resolution for the establishment of Urban Agriculture Incentive Zones (UAIZ) in certain unincorporated Santa Clara County areas in the City of San José's Urban Service Area/Urban Growth Boundary. (2) Expedite the date for San José's UAIZ Ordinance to be heard at the Planning Commission. (3) Expedite the date for San José's UAIZ Ordinance to be heard at City Council. (4) Allow San José's UAIZ Ordinance to be implemented before the thirty day implementation period has passed. (5) Ensure that San José's UAIZ Ordinance is adopted prior to November 28, 2016. Resolution No. 77925, entitled: "A Resolution of the Council of the City of San José Consenting to the Establishment of Urban Agriculture Incentive Zones in Certain Unincorporated County Areas That Are Within the Sphere of Influence of the City of San José Subject to Conditions and Consistent With the Urban Agriculture Incentive Zones Act (Assembly Bill 551) and Superseding Resolution No. 77584", was adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

6.1 **Review and reconfirm modifications previously made to the Norman Y. Mineta San José International Airport Air Service Support Program by City Council action on December 15, 2015 (Resolution No. 77635). CEQA: Resolutions Nos. 67380 and 71451, File No. PP09-192. (Airport)**

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated September 2, 2016, recommending that Council review and reconfirm modifications previously made.

Director of Aviation Services Kimberly J. Becker offered a brief report and responded to Council questions.

Action: Upon motion by Council Member Raul Peralez, seconded by Council Member Johnny Khamis and carried unanimously, modifications previously made to the Norman Y. Mineta San José International Airport Air Service Support Program by City Council action on December 15, 2015 were reconfirmed and approved. (11-0.)

PUBLIC SAFETY SERVICES

- 8.1 As recommended by the Public Safety, Finance, and Strategic Support Committee on August 18, 2016, accept the report on the implementation of the Fireworks Enforcement Ordinance Post-Fourth of July. CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Acceptance of Staff report. (Fire)
[Public Safety, Finance, and Strategic Support Committee referral 8/18/16 – Item d.3]**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Raul Peralez, Council Member Donald Rocha and Council Member Johnny Khamis, dated September 9, 2016, recommending acceptance of the Post Fourth of July Report with further direction as described in “Action”. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated September 1, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (3) Staff presentation dated September 13, 2016 summarizing the Fireworks Enforcement Ordinance Post-Fourth of July Report.

Fire Chief Curtis P. Jacobson and Communications Manager Lenka Wright presented the Report on the Implementation of the Fireworks Enforcement Ordinance Post-Fourth of July.

Motion: Vice Mayor Rose Herrera moved approval of the memorandum she cosigned with Mayor Sam Liccardo, Council Member Johnny Khamis, Council Member Raul Peralez and Council Member Donald Rocha, dated September 9, 2016, as described in “Action”. Council Member Johnny Khamis seconded the motion.

Brief Council discussion ensued.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Brian Darby expressed comments pertaining to the Report on the Implementation of the Fireworks Enforcement Ordinance Post-Fourth of July.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Raul Peralez, Council Member Donald Rocha and Council Member Johnny Khamis, dated September 9, 2016, was approved, as follows: (1) Accept the Post Fourth of July Report on the City’s Fireworks Enforcement Ordinance. (2) Direct the City Manager to report to Council through the FY 2017-2018 Budget process on costs for expanding fireworks enforcement before the fourth of July and during other impacted times of the year where fireworks are used in celebrations within the City of San José, focusing specifically on non-sworn personnel such as Code Enforcement or Park Rangers. (3) Direct the City Manager to return to the Public Safety, Finance and Strategic Support Committee and City Council in January 2017 with the following: (a) Feasibility of utilizing both technology and volunteers to relieve emergency dispatch personnel of call volume and to improve response, particularly to encourage residents to use on-line reporting, prior to and during, the Independence Day

8.1 (Cont'd.)

enhanced enforcement period. (b) Determine a schedule for enforcement that allows for online reporting, enforcement and follow-up to occur in early May 2017 or sooner to help deter additional illegal activity during the fourth of July Holiday. (c) Coordinate messaging between departments, including the call center and dispatch, so all departments and Staff are utilizing the same, consistent message and so residents with internet access will utilize the on-line reporting tool. (d) Develop a more targeted communications campaign focused on on-line reporting, enhanced administrative enforcement, collaboration with ethnic organizations and ethnic media outlets and how residents can help rather than merely offering generic messages about fireworks safety. (4) Direct the City Manager to work with the Mayor's Office Chief Innovation Officer and the City Manager's Office of Innovation to enhance the on-line reporting tool, specifically focused on minimizing confusion and simplifying and streamlining the "back end" of the process to improve response and follow-up. (11-0.)

8.2 **As recommended by the Public Safety, Finance, and Strategic Support Committee on August 18, 2016, accept the annual report on the Office of Emergency Services work plan priorities. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff Reports that involve no approvals of any City Actions. (Fire)**

Documents Filed: (1) Memorandum from Vice Mayor Rose Herrera, Council Member Chappie Jones, Council Member Raul Peralez and Council Member Tam Nguyen, dated September 9, 2016, recommending acceptance of the report with further direction to Staff as described in "Action". (2) Memorandum from Council Member Johnny Khamis, dated September 12, 2016, recommending acceptance of the recommendations from the memorandum from Vice Mayor Rose Herrera, Council Member Chappie Jones, Council Member Raul Peralez and Council Member Tam Nguyen, dated September 9, 2016 with further direction to Staff, as described in "Action". (3) Memorandum from City Clerk Toni J. Taber, CMC, dated September 1, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Fire Chief Curtis P. Jacobson presented introductory remarks.

Motion: Council Member Johnny Khamis moved approval of his memorandum dated September 12, 2016, recommending acceptance of the recommendations from the memorandum from Vice Mayor Rose Herrera, Council Member Chappie Jones, Council Member Raul Peralez and Council Member Tam Nguyen, dated September 9, 2016, with further direction to Staff, as described in "Action".

Fire Chief Curtis P. Jacobson and Director of Office of Emergency Services Ryan Broughton responded to Council questions and concerns.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Brian Darby expressed comments on the Office of Emergency Services work plan priorities.

8.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Johnny Khamis, dated September 12, 2016, was approved, accepting the recommendations put forward in the memorandum from Vice Mayor Rose Herrera, Council Member Chappie Jones, Council Member Raul Peralez and Council Member Tam Nguyen, dated September 9, 2016, as outlined below. (a) Direct the City Manager to evaluate whether the Office of Emergency Services should remain under the Fire Department or be included as a function within the Office of the City Manager. The memorandum from Vice Mayor Rose Herrera, Council Member Chappie Jones, Council Member Raul Peralez and Council Member Tam Nguyen, dated September 9, 2016, was approved, as follows: (a) Accept the report on the Office of Emergency Services Work Plan Priorities. (b) Direct Staff to develop a plan to deliver Community Emergency Response Team (CERT) training courses to residents in all Council Districts with priority to those areas that have been underserved in the past; with capacity to do outreach and train in multiple languages as determined by community need. (c) Direct Staff to maximize the use of CERT trained volunteers to accelerate the delivery of CERT training. (d) Direct Staff to work with all Council Districts to create, implement and maintain a district emergency plan. (11-0.)

OPEN FORUM

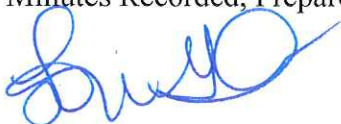
Documents Filed: Letter from Brian Darby, dated September 12, 2016, regarding the proposed Santana West Development.

- (1) James Mabalot Rodolfa urged the Council to continue to assist the homeless and expressed concerns about unaffordable rents and the high cost of funerals.
- (2) Blair Beekman opined about the Vision Zero process, surveillance, technology, openness and transparency in the City of San José.
- (3) Brian Darby expressed concern about the extent and duration of the Santana West Development project citing increased traffic, lack of parking, noise, pollution and an impacted quality of life to neighboring residents.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:03 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10374	5951 Sunstone Dr	2	Lennar Ave One, LLC	2/190	MFA	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10383	6082 Almaden Expressway	10	DAL/Edenbridge San Jose 8 L.P	11/8	SFD
10374	5951 Sunstone Drive	2	Lennar Avenue One, LLC	2/190	MFA

This notice is to be posted with the City Council's regular agenda for 9/13/16.